



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 15, 2011

Ms. Margaret Ward
Shotts, Treviño, & Guevara, L.L.P.
2237 Hillside Drive
San Angelo, Texas 76904

OR2011-08472

Dear Ms. Ward:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 420634.

The Burkburnett Police Department (the "department"), which you represent, received a request for documentation of monitoring or surveillance of a specified location over a specified time period and information pertaining to a specified arrest of a named individual. You state the department does not have any information responsive to the request for documentation of monitoring or surveillance of a specified location.¹ You also state the department has released some of the requested information. You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

¹We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984).

²We note that although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you do not assert this section applies to the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and submit a letter from the department Chief stating, that the submitted information relates to a pending criminal prosecution. Based upon this representation, we conclude that release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, we conclude that section 552.108(a)(1) of the Government Code is generally applicable to the information you have marked.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. *See Houston Chronicle*, 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note you have marked the entire narrative portion of the submitted report as information you seek to withhold under section 552.108. However, the unmarked portions of the report do not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See* ORD 127. Thus, with the exception of basic information, which must include a detailed description of the offense, you may withhold the information you have marked under section 552.108(a)(1).³

You assert some of the remaining information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release.⁴ Gov’t Code § 552.130(a)(1), (2). We agree the department must withhold the Texas motor vehicle record information you have marked under section 552.130.

³We note basic information includes an arrestee’s social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act. *See* Gov’t Code § 552.147(b).

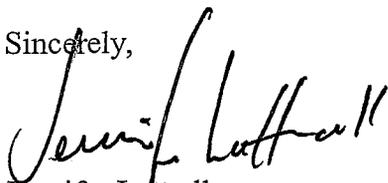
⁴We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number and Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, with the exception of basic information, which must include a detailed description of the offense, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the information you have marked under section 552.130 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 420634

Enc. Submitted documents

c: Requestor
(w/o enclosures)